

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERADATA CORPORATION, TERADATA
US, INC., and TERADATA OPERATIONS,
INC.

Plaintiffs,

v.

SAP SE, SAP AMERICA, INC., and SAP
LABS, LLC,

Defendants.

CASE NO. 20-mc-0074 RSM

ORDER

Underlying Action:
Case No. 3:18-cv-3670-WHO (N.D. Cal.)

Plaintiffs filed this action alleging that Microsoft had not complied with a subpoena issued in an out-of-district antitrust matter, proceeding in the Northern District of California and to which Microsoft was not a party, and seeking an order forcing Microsoft's compliance. Dkt. #1 (Plaintiff's Motion to Compel Discovery from Microsoft Corporation). Prior to their motion's noting date, Plaintiffs filed notice with the Court that they were withdrawing their motion. Dkt. #11 at 1. As Plaintiff's motion has been withdrawn without prejudice and because this Order otherwise resolves all pending issues, this action shall be closed.

Concurrent with their withdrawal of their motion, Plaintiffs sought to withdraw certain materials from the record. *Id.* Plaintiffs indicate that David D. Cross' declaration in support of their motion to compel "inadvertently included an exhibit . . . that was designated confidential pursuant to a protective order in the underlying litigation." *Id.* Plaintiffs do not specifically identify the confidential information, but it appears that Plaintiffs refer to Exhibit 3 to the Cross

1 declaration. *See* Dkt. #1-1 at 88–118 (including discovery responses from Defendants marked as
2 “HIGHLY CONFIDENTIAL ATTORNEYS’ EYES ONLY”). The dispute before the Court
3 relates to discovery, is only tangentially related to the parties’ underlying litigation, and Plaintiffs’
4 have withdrawn their motion to compel. *See Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*,
5 307 F.3d 1206, 1210 (9th Cir. 2002) (applying “good cause” standard to protection of discovery
6 materials); *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1098 (9th Cir. 2016)
7 (advising that public access should “turn on whether the motion is more than tangentially related
8 to the merits of a case); LCR 5(g)(6) (contemplating requests to withdraw documents where filed
9 materials will not be sealed). Accordingly, the Court finds good cause to grant withdrawal of the
10 exhibit previously designated as confidential. Plaintiffs, however, shall file a redacted copy of the
11 Cross declaration omitting only the confidential exhibit.

12 Accordingly, having considered the matter, the Court finds and ORDERS that:

- 13 1. Plaintiffs’ Motion to Compel Discovery from Microsoft Corporation (Dkt. #1) is
14 withdrawn and TERMINATED.
 - 15 2. The Court GRANTS Plaintiffs’ request to withdraw Exhibit 3 to the Cross declaration
16 (Dkt. #1-1 at 88–118).
 - 17 3. The Clerk shall WITHDRAW, by striking and sealing, the Declaration of David D. Cross
18 in Support of Teradata’s Motion to Compel Discovery from Microsoft (Dkt. #1-1).
 - 19 4. Within seven (7) days of this Order, Plaintiffs shall refile the Declaration of David D.
20 Cross in Support of Teradata’s Motion to Compel Discovery from Microsoft (Dkt. #1-1)
21 but omitting Exhibit 3 thereto (Dkt. #1-1 at 88–118).
 - 22 5. This matter is CLOSED.
- 23
24
25
26

Dated this 21st day of September, 2020.

A handwritten signature in black ink, appearing to read 'R. Martinez', is positioned above the printed name.

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE